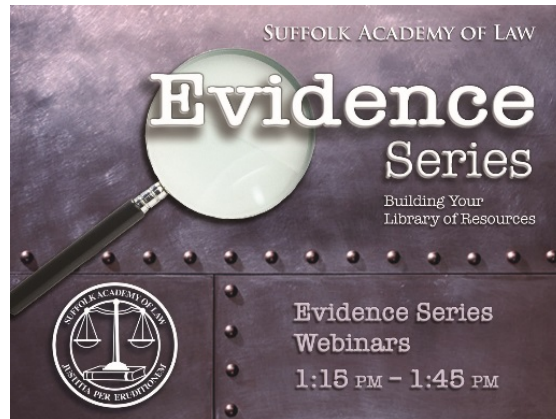




SUFFOLK ACADEMY OF LAW
The Educational Arm of the Suffolk County Bar Association
560 Wheeler Road, Hauppauge, NY 11788
(631) 234-5588



EVIDENCE SERIES:
Present Sense Impressions – Excited Utterance

FACULTY:

Hon. John B. Collins

October 28, 2021
Suffolk County Bar Association, New York

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“The opinions, beliefs and viewpoints expressed herein are those of the authors and do not necessarily reflect the official policy, position or opinion of the Suffolk County Bar Association, Suffolk Academy of Law, their Board of Directors or any of their members”

HON. JOHN B. COLLINS

210 Center Drive
Riverhead, NY 11901
631-852-1640

New York State Supreme Court Justice
(Term: 2012-2025)

EDUCATION

Boston College, Chestnut Hill, Massachusetts
A.B., 1977, History, magna cum laude
Fordham University School of Law, New York, New York,
J.D., 1981

BAR ADMISSIONS

New York, 1st Dept., March 1982
U.S.D.C.; N.Y., Southern District, December 1985
U.S.D.C.; N.Y., Eastern District, December 1985

PRIOR LEGAL EXPERIENCE

Suffolk County District Attorney's Office, August 1981-Present
-Dep. Bureau Chief, Homicide Bureau, 1989-1992
- Bureau Chief, Homicide Bureau, 1992-1995
- Bureau Chief, Major Crime Bureau, 1995-2000
- Bureau Chief, Homicide Bureau, 2000-2007
- Chief Trial Prosecutor, September 2005-December 2011
N.Y.S. Supreme Court Justice, 2012-present

ACCOMPLISHMENTS

Elected N.Y.S. Supreme Court, November 8, 2011
Assisted in establishment of S.A.N.E. Program for S.C.P.D. and victims of sexual assault, 1996
Supervised prosecution of hundreds of homicides in Suffolk City. Successfully tried 20 murder cases to verdict
Headed interagency task force which investigated the 1996 beating of Shane Daniels in Westhampton Beach
Prosecuted convicted felon Arthur Adinolfi for the line of duty death of Suffolk Police Sgt. Timothy Henck (1995-1996)
Lead attorney in the successful capital prosecution of convicted felon Stephen LaValle for the 1997 murder of Cynthia Quinn, 1999
2004 "Cold Case" murder conviction of Stephen Manolis for the 1996 murder of Kristen Scarabelli
2011 - Supervised investigation and prosecution of "Medford Pharmacy Murderer", David Laffer

HONORS/AWARDS

Suffolk County District Attorney Award for Excellence, 1989
Suffolk County District Attorney Distinguished Service Award, 1991
Award of Appreciation, Parents of Murdered Children, Long Island Chapter, 1992
Suffolk County District Attorney Investigators' PBA Award of Appreciation, 1996
Suffolk County Detectives Association, Award of Appreciation, 1999
Suffolk County District Attorney Distinguished Trial Advocacy Award, 1999
Suffolk County Police Department Homicide Squad Award of Appreciation, 2004
Suffolk County Brehon Society, "Brehon of the Year," 2009

PROFESSIONAL MEMBERSHIPS

Suffolk County Bar Association
Suffolk County Bar Association Judicial Screening Committee,
(appointed 2006-2011)
Suffolk County Criminal Bar Association, 1983-Present
(Board of Directors, 1996-2011)
Suffolk County Police Association, 1983 - Present
New York State District Attorney's Association, 1982-2011
Suffolk County Executive's Task Force on Family Violence,
Sexual Violence Subcommittee, 1996 -2000
New York State District Attorney's Association
Legislative Subcommittee on Sex Offenses, 1997-2000
D.C.J.S., Office of Forensic and Victim's Services
Crime Scene Management Workgroup, 2001

FACULTY/LECTURER

Suffolk County Criminal Bar Association
Suffolk County Police Department Academy
Suffolk County Sheriff's Academy
Long Island Press Club, "Cameras in the Courtroom" 1991
The Alexander Hamilton Inn, American Inns of Court
"Inside the Jury Room... Jury Nullification" May 1996
Suffolk County Bar Association, Academy of Law, April 1997
New York Regional Conference on Sexual Assault and
Violence
Against Women, Central Islip, New York, November 1998
New York Prosecutor's Training Institute Faculty Member
October 1995 Garden City Hotel
August 2000 Syracuse Law School
April 2001 Touro Law School
August 2001 Syracuse Law School
March 2004 USMA, West Point
United States Marshall's Service, Department of Justice N.Y./N.J. Regional
Fugitive Task Force, Training Seminar, June 2003

EXCITED UTTERANCE AND PRESENT SENSE IMPRESSION

EXCEPTIONS TO THE BAR TO HEARSAY

HON. JOHN B. COLLINS, J.S.C.
(JBCollin@nycourts.gov)

1. **FEDERAL COURT** ~ Governed by RULE 803
2. **NEW YORK STATE**

Excited Utterance (Spontaneous Declaration):

“An excited utterance has been defined as a spontaneous statement, made contemporaneously or immediately after a startling event, which asserts the observations of that event by the declarant. The admissibility of any excited utterance is entrusted in the first instance to the trial court. . . The deciding factor is whether the surrounding circumstances reasonably justify the conclusion that the remarks were not made under the impetus of studied reflection.” Statements that are not the “product of studied reflection” owing to stress or the influence of excitement from an external event may be admitted under this exception.

Present Sense Impression

A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition as it was unfolding, or immediately thereafter is admissible, irrespective of whether the declarant is available to testify, provided that there is evidence, independent of the statement, that supports: (A) the accuracy of the contents of the statement and (b) that the statement was made contemporaneously with the event or immediately thereafter.

3. **New York Cases of Note:**

People v. Brown, 80 NY2d 729 (1993)

People v. Cantave, 21 NY3d 374 (2013)

People v. Buie, 86 NY2d 501 (1995)

People v. Johnson, 1 NY3d 302 (2003)

People v. Vasquez, 88 NY2d 561 (1996)

People v. Melendez, 296 AD2d 424, *Lv. Denied* 98 NY2d 770 (2002)



SCBA Lawyers Helping Lawyers Committee

The SCBA Lawyers Helping Lawyers Committee provides free and confidential assistance to those in the legal community who are concerned about their alcohol or drug use and/or mental health or wellbeing or that of a colleague or family member.

Assistance is available to the legal community including attorneys, members of the judiciary, law students, and family members dealing with alcohol or substance abuse disorder, other addictive disorders, anxiety, depression, vicarious trauma, age related cognitive decline and other mental health concerns that affect one's well-being and professional conduct.

**Please call the
Lawyers Helping Lawyers Helpline at (631) 697-2499
to speak with an attorney who will provide support and recommend
resources. All calls are private and confidentiality is protected under
Judiciary Law Section 499. (Lawyer Assistance Committee)**